

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

TIMOTHY G. COLLINS,

Case No. 3:24-cv-00159-ART-CLB

Plaintiff,

ORDER

v.

STATE OF NEVADA,

Defendants.

Plaintiff Timothy G. Collins brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). On October 16, 2024, this court ordered Collins to file his updated address by November 18, 2024. (ECF No. 5). That deadline expired without an updated address from Collins, and his mail from the Court is being returned as undeliverable. (See ECF No. 6).

**I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic

1 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
2 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th  
3 Cir. 1987)).

4 The first two factors, the public's interest in expeditiously resolving this  
5 litigation and the Court's interest in managing its docket, weigh in favor of  
6 dismissal of Collins's claims. The third factor, risk of prejudice to defendants,  
7 also weighs in favor of dismissal because a presumption of injury arises from the  
8 occurrence of unreasonable delay in filing a pleading ordered by the court or  
9 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
10 1976). The fourth factor—the public policy favoring disposition of cases on their  
11 merits—is greatly outweighed by the factors favoring dismissal.

12 The fifth factor requires the Court to consider whether less drastic  
13 alternatives can be used to correct the party's failure that brought about the  
14 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
15 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
16 the party has disobeyed a court order does not satisfy this factor); *accord*  
17 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that  
18 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted  
19 pursuit of less drastic alternatives prior to disobedience of the court's order as  
20 satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled  
21 with the warning of dismissal for failure to comply[,]” have been “eroded” by  
22 *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally  
23 dismissing a case, but must explore possible and meaningful alternatives.”  
24 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action  
25 cannot realistically proceed without the ability for the Court and the defendants  
26 to send Collins case-related documents, filings, and orders, the only alternative  
27 is to enter a second order setting another deadline. But without an updated  
28 address, the likelihood that the second order would even reach Collins is low, so

1 issuing a second order will only delay the inevitable and further squander the  
2 Court's finite resources. Setting another deadline is not a meaningful alternative  
3 given these circumstances. So the fifth factor favors dismissal.

## 4 **II. CONCLUSION**

5 Having thoroughly considered these dismissal factors, the Court finds that  
6 they weigh in favor of dismissal. It is therefore ordered that this action is  
7 dismissed without prejudice based on Collins's failure to file an updated address  
8 in compliance with this Court's October 16, 2024, order. The Clerk of Court is  
9 directed to enter judgment accordingly and close this case. No other documents  
10 may be filed in this now-closed case. If Collins wishes to pursue his claims, he  
11 must file a complaint in a new case and provide the Court with his current  
12 address.

13 It is further ordered that Collins's application to proceed *in forma pauperis*  
14 (ECF No. 1) is denied as moot.

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16 DATED THIS 6th day of December 2024.

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21 ANNE R. TRAUM  
22 UNITED STATES DISTRICT JUDGE  
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